

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:22-cv-00128-MR**

JONAH DAVID TEAL,)
Plaintiff,)
vs.) **O R D E R**
MARK GOUGE, et al.,)
Defendants.)

)

THIS MATTER is before the Court on the Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs [Doc. 2].

The Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983 addressing incidents that allegedly occurred while he was a pretrial detainee at the Yancey County Detention Center (YCDC).¹ Federal courts can allow a litigant to prosecute or defend a civil action without paying the usual required fees if the litigant submits an affidavit containing a statement of the litigant's assets and demonstrating that he cannot afford to pay the required fees. 28 U.S.C. § 1915(a)(1). An impoverished plaintiff does not have to prove that he is "absolutely destitute to enjoy the benefit of the statute."

¹ Telephonic inquiry to YCDC on July 6, 2022 confirmed that the Plaintiff is no longer in custody.

Adkins v. E.I. Du Pont de Nemours & Co., 335 U.S. 331, 339 (1948). The individual seeking to proceed in forma pauperis need only show indigence or poverty sufficient to demonstrate his inability to provide for the necessities of life while paying the costs of litigation. Id. at 339-40. If a court determines at any time that the allegation of poverty made in an in forma pauperis application is “untrue,” then the court “shall dismiss the case.” 28 U.S.C. § 1915(e)(2)(A).

The Application states that Plaintiff’s average monthly income for the past 12 months was \$1,190, consisting of \$300 from self-employment, \$100 in gifts, \$100 in energy assistance, and \$690 in food stamps. [Doc. 2 at 1-2]. The Plaintiff claims that he expects zero income next month. [Id.]. As assets, the Plaintiff claims to have \$27.36 in bank accounts and a trailer worth \$4,700. [Id. at 2-3]. He does not state the amount of cash that he has. [Id. at 2]. The Plaintiff’s monthly expenses total \$1,146.36, including \$200 for housing, \$130 for utilities, \$400 for food, \$100 for motor vehicle insurance, and \$1.36 for “registration.” [Id. at 4-5]. The Plaintiff states that he does not expect any major changes to his monthly income, expenses, assets, or liabilities in the next 12 months, nor does he expect to have any expenses or attorney fees in conjunction with this lawsuit. [Id. at 5]. The

Plaintiff further explains his inability to pay the costs of these proceedings as follows: "My incarceration and decrease in work due to Covid-19." [Id.].

The Court is not satisfied that the Plaintiff is unable to pay the costs of these proceedings. The Application is incomplete and contains conflicting information. For instance, he fails to explain why he does not expect any income next month even though he states that he does not anticipate any significant changes in his monthly income; he does not list a motor vehicle as an asset even though he claims motor vehicle insurance and registration as monthly expenses; and the section of the Application form indicating the amount of cash that he has is blank. Accordingly, the Application will be denied without prejudice for the Plaintiff to pay the full filing fee or file an Amended Application to proceed in forma pauperis within 14 days of this Order. The failure to timely comply with this Order will result in this case's dismissal without prejudice and without further notice to the Plaintiff.

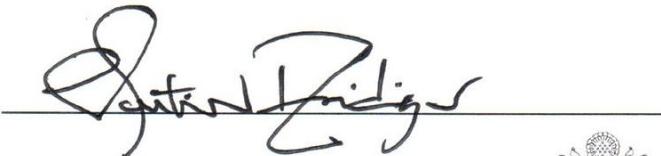
IT IS, THEREFORE, ORDERED that:

1. The Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs [Doc. 2] is **DENIED**
2. The Plaintiff shall have **fourteen (14) days** in which to pay the filing fee or file an Amended Application to proceed in forma

pauperis (Long Form, AO 239).² If the Plaintiff fails to timely comply with this Order, this case will be dismissed without prejudice and closed without further notice.

IT IS SO ORDERED.

Signed: July 14, 2022



Martin Reidinger
Chief United States District Judge



² Application forms are available on the Court's website, <https://www.ncwd.uscourts.gov/local-forms/prose-forms>.